

EXHIBIT 3

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UNITED STATES DISTRICT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10106JLT

ZHANNA CHIZHIK,
Plaintiff,

v.

SEA HUNT BOATS, INC., TROPICLAND
MARINE AND TACKLE, INC.,
Defendant.

DEPOSITION of **GREGORY ZILBERMAN**, a witness called on
behalf of the Defendant Sea Hunt Boats, Inc., taken
pursuant to the applicable provisions of the
Massachusetts Rules of Civil procedure, before John
F. Kielty, a Notary Public in and for the
Commonwealth of Massachusetts, at the Law Offices of
Murphy, Hesse, Toomey & Lehane, 300 Crown Colony
Drive, Quincy, Massachusetts, on Monday, May 16,
2005, commencing at 9:52 a.m.

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1 it, or you have to have a very powerful and
2 expensive setups.

3 Also, this particular boat is a bay boat,
4 which is -- it can go into very shallow places,
5 almost like a flat boat, but the same time, it
6 designed for inshore application. It supposedly
7 could take some rough water.

8 Q. Did you before you purchased the Navigator
9 22 review any documents about the Navigator 22?

10 A. I read the brochure. I saw the boat. I
11 spoke to dealer about it. I also spoke to one of
12 his clients who bought this particular model.

13 Q. So as far as the documents that you looked
14 at before you bought the Navigator 22, you looked at
15 a brochure?

16 A. Yes.

17 Q. Did you read the brochure front to back?

18 A. It's very small. It just one page.

19 Q. Do you remember anything specific that you
20 read in the brochure about the 22-foot Navigator,
21 Navigator 22?

22 A. Not really. It's all described as a stable
23 boat, capable of taking some rough water, and it's
24 also for in shallows.

1 Q. Mr. Zilberman, at the time of the -- strike
2 that.

3 When you arrived in the area of Middle
4 Brewster Island, it was around two o'clock in the
5 afternoon?

6 A. It's Great Brewster, not Middle Brewster.

7 Q. I see.

8 A. Outer Brewster.

9 Q. When you arrived in the area of Outer
10 Brewster Island, it was around two o'clock in the
11 afternoon?

12 A. Probably something like that or just
13 before.

14 Q. Had the sea conditions changed at all from
15 the time that you left Weymouth until the time that
16 you arrived outside of Outer Brewster Island?

17 A. Well, going to the Brewster, it was -- it
18 was rougher than we were going before, but we were
19 also getting, you know, out of the harbor. And
20 usually, at the entrance the water is always rough,
21 or you could have, you know, no waves or, like, up
22 to one foot inside, and it will be couple feet
23 waves, you know, outside or even, you know,
24 occasional large at the entrance.

1 want to leave, and that moment I was just, you know,
2 bringing back the line. And we were planning to
3 turn around and go to different spot.

4 Q. Were you worried at all as you were bringing
5 back in the line? Was there anything for you to
6 worry about, to your knowledge?

7 A. No. No. I wouldn't stay in a place if I
8 wouldn't feel safe there.

9 Q. Okay.

10 A. I mean, you would be cautious, but at no
11 point it would come into my mind that we could get
12 into accident.

13 Q. I see.

14 A. I mean, you take a normal precaution. You
15 know, as operator of the boat, I feel it was kind of
16 my responsibility to make sure that we are safe.

17 Q. So what happened next then, Mr. Zilberman,
18 as you are reeling in with the idea in mind that you
19 were going to leave this area?

20 A. The guys was standing kind of behind me. We
21 were all holding. I was standing in the middle
22 right next to center console, and I was facing port
23 side, kind of leaning against -- I have not a seat
24 but sort of a leaning post. So I was leaning my

1 back toward it to have better footing, and the guys
2 were standing behind me, also, kind of in the
3 middle, you know, holding to center console and,
4 you know, railing over a leaning post.

5 Q. Why were they holding onto the leaning
6 post?

7 A. There are more waves. I mean, you have to
8 hold something when you're standing on a boat. I
9 mean, it wasn't absolutely still.

10 Q. Okay.

11 A. So there was a motion. Obviously, it's not
12 an ocean liner, so and just at some point, next
13 thing I know, damn thing capsize. I kind of, you
14 know, feel all of a sudden that I'm almost flying,
15 felt a bump on the head, and I'm under the water
16 with a fishing hook still in my hand. (Witness
17 indicating.)

18 Q. Did you see any waves coming toward you?

19 A. No, I haven't. I would usually when I'm,
20 you know, place like this and especially alone, kind
21 of -- you know, you look at something, and then you
22 turn around and just see what's coming. But, you
23 know, there's certain periods when you, you know,
24 don't look. You know, you look at one place, and

1 guys were kind of lookout.

2 Q. Were you faced --

3 A. And I haven't seen the wave that hit us, and
4 the waves were coming from behind. I mean, every so
5 often, I mean, every -- as a minute or so, I would
6 turn around and scan the sea to see what's going on,
7 but you also have to have your attention on the line
8 and, obviously, on the island to make sure that boat
9 is not drifting onto the rocks. So I was facing the
10 island, the rocks. (Witness indicating.)

11 Q. Your were facing the island. Where was Mr.
12 Chizhik facing, if you know?

13 A. They were both kind of behind me, but I
14 don't recall which of them was standing on my right
15 and which was standing on the left. But everybody
16 had a good footing, and everybody had something to
17 grab to so, you know, boat commotion wouldn't throw
18 you, you know, out of the boat. (Witness
19 indicating.)

20 Q. Did you hear anybody say anything in the
21 period of time which immediately came before your
22 boat capsizing?

23 A. I really don't remember for sure. It's all
24 happened kind of so fast and sudden that I don't